

REMARKS

Reconsideration and further examination of the above-identified application are respectfully requested in view of the RCE submitted herewith, and in view of the current amendments, and the discussion that follows. Claims 1-30 are pending in this application. Claims 1-5, 7-9, 11, 13-17, 19-21, 23, 25-28 and 30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over by Eilbacker et al. (U.S. Pat. No. 6,724,887). Claims 6, 18, and 29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacker in view of Ichbiah (U.S. Patent No. 5,623,406); and claims 10, 12, 22 and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacker in view of Schroeder et al. (U.S. Pat. No. 6,760,727). Claims 1, 13, 18, 19, 25, 29 and 30 have been amended. After a careful review of the claims and references, it is believed that the claims are in allowable form and a Notice of Allowance is respectfully requested.

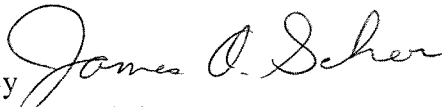
Independent claims 1, 13 and 25, as well as dependent claims 2-5, 7-9, 11, 14-17, 19-21, 23, 26-28 and 30 have been rejected as anticipated by Eilbacker. Eilbacker is directed to a call center which records and analyzes parameters of telephone calls to determine the customer experience. Eilbacker, however, is focused upon telephone calls and while allowing for email messages, etc., Eilbacker does not deal with the effective effort of data communications. As described in the application at p. 10, merely measuring time of use of the channel for telephone calls is known but asynchronous transactions are dramatically different because of the nature of the transaction. As defined by applicant (in the second paragraph of p 10) asynchronous transactions are data transactions that are for the most part intermittent and in which the data is created first and then transmitted afterward. Thus, it is difficult to determine how long the transaction actually required because the transaction may include exchanges over hours or days while the actual transactions (which may be the result of much effort in, for example, drafting an email) take only very short periods of time (e.g., milliseconds) with long delays in between. Neither Eilbacker nor any of the other references recognize or address this issue at all.

Independent claims 1, 13, and 25 have been amended to clarify that they are directed to an effort value which reflects effective effort associated with each transmission (see, e.g., p. 12, second paragraph). The Office Action concedes that Eilbacher does not teach a duration value (and thus not an effort value) which reflects effort associated with each transmission but argues

that it records start/end time and thus duration can be determined and that it would be obvious to modify Eilbacher such that a duration value is recorded that would reflect effort. However, Eilbacher does not disclose or suggest an effort value that represents effective effort and does not even disclose measuring the actual time of asynchronous transmission (which would be futile anyway). As described above, the duration of asynchronous transmission has no relationship to the effective effort put into them because each transmission, which requires substantial effort to prepare, is very short (e.g. milliseconds). Thus, the effort value does not measure, and has no relationship to, actual duration but instead reflects the effective effort put into the transmission. Since the effort value is unrelated to the actual time duration of the transmission, Eilbacher in no way teaches or suggests the feature. The Examiner unsupported assumption that applicant's effort value would be obvious is nothing but a hindsight assumption since no teaching, suggestion or motivation can be found in Eilbacher for measuring an effort value (or even an actual time duration value) for asynchronous transmissions. Since this feature is neither taught nor suggested by any of the cited references, claims 1, 13 and 25 are believed to be distinguishable over any combination of the cited references. Similarly, claims 2-12, 14-24 and 26-30 are believed to be allowable because they depend from allowable claims 1, 13 and 25. Dependent claim 19 has also been amended to clarify that the word content is used to determine whether different transmissions are part of one transaction or different transactions. This feature is also not disclosed by any of the cited references. .

As discussed above, claims 1-30 are not anticipated or rendered obvious by any combination of the cited references. Therefore, allowance of claims 1-30 is believed to be in order and such action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,
WELSH & KATZ, LTD.

By 
James A. Scheer
Registration No. 29,434

January 19, 2007
WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500